Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	WC Docket No. 11-42
Lifeline and Link Up Reform and Modernization	)	CC Docket No. 96-45
	)	
Federal- State Joint Board on Universal Service	)	WC Docket No. 03-109
	)	
Lifeline and Link Up	)	

INITIAL COMMENTS OF NALA/PCA TO THE NOTICE OF PROPOSED RULEMAKING ("NPRM") ON LIFELINE AND LINK UP REFORM AND MODERNIZATION

The National ALEC Association/Prepaid Communications Association (hereafter "NALA/PCA") is an organization of telecommunications providers that focus their marketing efforts on low income consumers. The telecom company members[1] include CLECs providing wireline services as well as wireless providers. Several companies hold Eligible Telecom Carrier designations from various state commissions and are experienced providers of Lifeline and Link Up services to qualified consumers.

NALA/PCA provides the following comments in response to the Commission's NRPM and reserves the opportunity to provide reply comments on issues it does not address in these initial comments.

[1] NALA/PCA membership includes Absolute Home Phones, Inc.; Aegis Telecom, Inc.; Amerimex Communications Corp.; Assist Wireless, LLC.; Assurance Home Phone Services, Inc.; DPI Teleconnect, LLC; Gulf Coast Home Phone Service, Inc.; Express Phone Service, Inc.; NewPhone, Inc.; QTel, Inc.; Reunion Communications, Inc. ; Midwestern Telecommunications, Inc.; Express Connection, LLC; Global Connection Inc. of America; Ready Wireless, LLC; TerraComm, Inc.; BeQuick Software, Inc.; CGM, LLC; Expert Communications Marketing, Inc.; Overgroup Consulting, LLC; and Telecom Service Bureau, Inc.

Clarifying Consumer Eligibility Rules - One Per Residential Address Requirement

NALA/PCA urges the Commission to abandon the "one service per residential address" approach and instead allow the Lifeline/Link Up programs to provide support for one wireless service per eligible adult.[2] For wireline services, the existing single-line per residence requirement can continue in effect as it is commonplace for multiple adults to share a residential wireline telephone.

Wireless service is by its mobile nature, necessarily tied to the individual and not to multiple users within a household. Increasingly, a wireless telephone is crucial to an individual's ability to obtain, and keep, a job. Wireless telephone service is often the gateway to full participation in society. NALA/PCA members have noted that low income wireless customers also move frequently; tying support to a residential address further frustrates otherwise qualified users in their desires to have telecommunications services.

The societal benefits from having more qualified adults with their individual telephone services, and thereby having more access to the economy and jobs, should take precedence over concerns about the growth of the low income fund. As discussed below, NALA/PCA suggests that the fund for Lifeline and Link Up reimbursements be allowed to grow and if reductions in benefits become necessary for the overall viability of the USF, such reductions come from the high-cost fund first. Basic universal service goals of access to telecommunications services can be best served for the largest number of consumers through the Lifeline / Link Up programs' provision of support for one wireless service per qualifying adult.

[2] Notice of Proposed Rulemaking ("NRPM") herein at ¶110.

Customary Charge for Commencing Telecommunications Service.

NALA/PCA understands the proposed amendment to define "customary charge for commencing telecommunications service" as the ordinary initiation charges that an ETC routinely imposes on all customers within a state.[3] One modification is suggested to the proposed rule. The second sentence within the proposed sub-part (e) should be changed to read:

> "Such a charge is limited to an actual charge assessed on all customers to initiate service <u>for a similar service</u> with that ETC." [Proposed additional language in <u>underline</u>.]

Telecommunications companies may offer numerous service options to the public with varying charges for commencing services due to differences in features and payment plans. ETCs should only be required to demonstrate that the service commencement fee for the service plan offered to Lifeline customers is also charged to non-Lifeline customers for the same service plan.

Exceptions should be made where a state commission has ordered ETCs to waive the remainder of connection charges not reimbursed by the USF.[4]

The Commission should not adopt a rule that prohibits resellers from imposing a connection charge on consumers when the underlying wholesale provider has not assessed a similar connection charge on the reseller.[5] Connection charges are assessed by telecommunications companies to recoup their own costs of providing service including marketing, Operations Systems Support ("OSS"), and customer service representatives.

---

[3] NPRM at Appendix A at 47 C.F.R. §54.413

[4] NPRM at ¶74.

[5] *Id.* at ¶76.

Individual companies make their own determinations as to whether these costs should be recouped from recurring costs for basic service or in one time initial service connection fees. These decisions should not be micro-managed by regulators and should instead be left to business managers to enable them to respond to the marketplace and to have the ability to differentiate their services from competitors. So long as the connection charge is assessed to the public at large for the same service plan, there should be reimbursements through the Link Up program for revenue foregone by reducing the charge to qualified low income customers.

The current $30 cap on Link Up support should be maintained and not decreased.[6] While some costs for service initiation have decreased due to mechanization and software innovations, other costs such as labor and advertising have increased.

The Commission's proposed rule changes in this NPRM should go far to eliminate waste, fraud and abuse. The Commission should not impose any new and burdensome requirements for ETCs to submit cost support to USAC for the revenues they forgo in reducing customer service connection charges.[7] The standards for such cost support are likely to be controversial and complicated for small businesses and will certainly increase the costs of doing business with resulting price increases to consumers for no real benefit. Furthermore, USAC would be diverted from its primary functions, and attention would be taken away from USAC's overall compliance and enforcement responsibilities.

---

[6] *Id.* at ¶78.
[7] *Id.* at ¶79.

Audits

NALA/PCA requests that the Commission withdraw its proposed rule for all new ETCs to be audited after the first year of providing Lifeline-supported service.[8] USAC already has full audit authority and is better able to determine which companies to audit and when. NALA/PCA fears that an automatic audit after one year of all new ETCs may take away from the discretion of USAC auditors to concentrate on providers needing earlier audits or unnecessarily divert attention to companies who have demonstrated a good compliance pattern since initiation of Lifeline provisioning.

USAC should be given clear direction that its efforts with respect to audits of new ETCs should concentrate on education for long – term compliance by ETCs and not on enforcement and penalties.

Eliminating Reimbursement for Toll Limitation Service

NALA/PCA opposes the elimination of reimbursement for toll limitation service ("TLS").[9] Toll limitation service remains a valuable management/budgetary tool for end users and ensures that local service and access to emergency service remains in place for heads of households. Many consumers prefer the reliability of a non-mobile, always – on wireline service that allows unlimited outbound and inbound local calling with limited toll calling using TLS. Without toll limitation service, ETCs will not be able to offer these high value service packages as unlimited toll calling can quickly exceed the ability of customers to pay and can turn a minimally profitable service for the ETC providers to a loss.

---

[8] *Id.* at ¶98.
[9] *Id.* at ¶70.

Database

NALA/PCA encourages the implementation of a national, centralized database for online certification and verification of qualifications for the Lifeline and Link Up programs. To be truly useful and effective, this database should be "real time" and allow ETCs to determine consumers' eligibility at the time of enrollment. The database should not be one that would be used at the "back end" such as in conjunction with the filings and review of Form 497 filings. Use of the database limited to "after the fact" compliance checks would only frustrate consumers who might have already received subsidized phone service to only have it taken away. Likewise, ETCs would be frustrated in that the database would not be available to quickly and easily verify eligibility prior to provisioning services.

Electronic Signature

NALA/PCA supports allowing consumers to enroll using electronic signatures as well as interactive voice responses. ETCs should be allowed to keep copies of the electronic data in simple pdf type format.

Constraining the Size of the Low-Income Fund

NALA/PCA opposes the imposition of any arbitrary cap on the size of the fund for Lifeline and Link Up programs. The NRPM's proposed rules will greatly eliminate any waste, fraud, and abuse which may now be occurring. The size of the fund, then, will reflect the need for programs and the success of ETCs in their required outreach and marketing efforts.[10]

[10] 47 U.S.C.§214(e)(1)(B) requires ETCs to advertise the availability of services supported by universal service funds .

Our nation is beginning its recovery from the worst economic downturn since the Great Depression. These hard times coincide exactly with time period wherein the low-income fund grew from $822 million in 2008 to an estimated $1.4 billion in 2010. During this same period regulators have intensified their calls for more customer outreach. As observed in the Notice herein, "over the years, the Commission has highlighted the importance of outreach to low-income customers."[11] And again here, the Commission signals the importance of outreach in seeking comments as to whether specific outreach requirements should be imposed on ETCs[12] and on what steps the Commission could take to encourage state and Tribal social service agencies to take a more active role in reaching potential Lifeline-eligible consumers.[13]

The Commission has further encouraged more telephone companies to provide Lifeline and Link Up services. The *Tracfone Forebearance Order*[14] is an example. There then-Commissioner Abernathy noted that a 2004 study by Commission staff indicated that only a third of eligible households were actually subscribing to the Lifeline program.[15] She concluded that "by providing support to resold wireless services, we are indeed extending a "line" to customers who might not otherwise make use of the Lifeline program, and thus are helping to fulfill Congress's vision of truly *universal* service."[16]

The growth in disbursements for Lifeline and Link Up subsidies, then, is a common sense result of increased demand and the success of policy makers in attracting new ETCs which, following the Commission's directives, are employing more effective and thorough

[11] NRPM at ¶226.
[12] *Id.* at ¶235 and ¶
[13] *Id.* at ¶233.
[14] Order adopted September 6, 2005, *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. §214(e)(1)(A) and 47 C.F.R. §54.201(i);* CC Docket No. 96-45
[15] *Id.* at page 13.
[16] *Id.* (Emphasis in original.)

marketing/outreach strategies. An artificial cap on Lifeline and Link Up would only serve to penalize those consumers who need access to basic telecommunications services and whose lack of such services is the core justification for the Universal Service Fund's existence.

Respectfully submitted,

Mark Foster
Attorney at Law
707 West Tenth Street
Austin, TX 78701
(512) 708-8700
(512) 697-0058/fax

By: Mark Foster
Mark Foster
Texas Bar No. 07293850
mark@mfosterlaw.com